



June 30, 2014

## *Canadian Anti-Spam Law*

The new Canadian Anti-Spam Law ("CASL") begins to phase in on July 1, 2014 with the Canadian requirements regulating Commercial Electronic Messages. The purpose of the legislation is to reduce electronic threats to commerce from spam, malware and unauthorized collection of personal data.

### *Who does the law target?*

CASL applies to everyone that sends Commercial Electronic messages to Canada. This includes corporations, non-profits, individuals, colleges and universities, trade association and hospitals.

### *Am I sending a Commercial Electronic Message ("CEM")?*

A CEM is a messages that encourages participation in a commercial activity, including advertisements and information about promotions, offers, business opportunities, and events.

### *How do I comply with CASL?*

To be compliant, all Commercial Electronic Messages must have:

1. **Consent** – Express consent can be obtained orally or in writing. Existing express consent is valid after CASL but new consent cannot be obtained by sending a commercial electronic message.
2. **Identification Information** - Each communication must include a company name and a valid mailing address. Use of the company address in an email meets this requirement. If you are sending information on behalf of another business, you must identify that organization.
3. **Unsubscribe Mechanisms** – Unsubscribe mechanisms allow the recipient to stop receiving the communications. These can be very broad and include an unsubscribe email address, a link to a website, or even texting the word STOP to a text message CEM.

### *Are there any exceptions?*

There are several exceptions including personal relationships, established business to business relationships, and messages sent from outside of Canada where the sender could not reasonably know that it would be received in Canada.

### *What are the penalties for non-compliance?*

Failure to follow CASL can result in Administrative Monetary Penalties of \$1 million for an individual or \$10 million for an organization. Directors and officers may be held liable for the actions of a company. In 2017, the law will expand to allow individual recipients to seek damages through a Private Right of Action.

*What should I do to prepare?*

Review your internal processes and determine who you are sending messages to and what type of content they contain. Determine whether you have consent to send these messages. Train your staff on CASL. Make sure that your messages have consent, identification information and unsubscribe mechanisms.

If you have questions regarding the Canadian Anti-Spam Law and the issues outlined in this Client Alert, please contact your regular Butzel Long attorney or the authors of this Client Alert.

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